

109TH CONGRESS  
1ST SESSION

# S. 1213

To amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer.

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## IN THE SENATE OF THE UNITED STATES

JUNE 9, 2005

Ms. STABENOW (for herself and Mr. SMITH) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “First-Time Home-  
5 buyers’ Tax Credit Act of 2005”.

6 **SEC. 2. REFUNDABLE CREDIT FOR FIRST-TIME HOME-**  
7 **BUYERS.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable credits) is amended by redес-  
 2 ignating section 36 as section 37 and by inserting after  
 3 section 35 the following new section:

4 **“SEC. 36. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-**  
 5 **TIME HOMEBUYER.**

6 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
 7 dividual who is a first-time homebuyer of a principal resi-  
 8 dence in the United States during any taxable year, there  
 9 shall be allowed as a credit against the tax imposed by  
 10 this subtitle for the taxable year an amount equal to 10  
 11 percent of the purchase price of the residence.

12 “(b) LIMITATIONS.—

13 “(1) MAXIMUM DOLLAR AMOUNT.—

14 “(A) IN GENERAL.—The credit allowed  
 15 under subsection (a) shall not exceed the excess  
 16 (if any) of—

17 “(i) \$3,000 (2 times such amount in  
 18 the case of a joint return), over

19 “(ii) the credit transfer amount deter-  
 20 mined under subsection (c) with respect to  
 21 the purchase to which subsection (a) ap-  
 22 plies.

23 “(B) INFLATION ADJUSTMENT.—In the  
 24 case of any taxable year beginning after Decem-  
 25 ber 31, 2005, the \$3,000 amount under sub-

1 paragraph (A) shall be increased by an amount  
2 equal to \$3,000, multiplied by the cost-of-living  
3 adjustment determined under section 1(f)(3) for  
4 the calendar year in which the taxable year be-  
5 gins by substituting ‘2004’ for ‘1992’ in sub-  
6 paragraph (B) thereof. If the \$3,000 amount as  
7 adjusted under the preceding sentence is not a  
8 multiple of \$10, such amount shall be rounded  
9 to the nearest multiple of \$10.

10 “(2) TAXABLE INCOME LIMITATION.—

11 “(A) IN GENERAL.—If the taxable income  
12 of the taxpayer for any taxable year exceeds the  
13 maximum taxable income in the table under  
14 subsection (a), (b), (c), or (d) of section 1,  
15 whichever is applicable, to which the 25 percent  
16 rate applies, the dollar amounts in effect under  
17 paragraph (1)(A)(i) for such taxpayer for the  
18 following taxable year shall be reduced (but not  
19 below zero) by the amount of the excess.

20 “(B) CHANGE IN RETURN STATUS.—In the  
21 case of married individuals filing a joint return  
22 for any taxable year who did not file such a  
23 joint return for the preceding taxable year, sub-  
24 paragraph (A) shall be applied by reference to

1 the highest taxable income of either such indi-  
 2 vidual for the preceding taxable year.

3 “(c) TRANSFER OF CREDIT.—

4 “(1) IN GENERAL.—A taxpayer may transfer  
 5 all or a portion of the credit allowable under sub-  
 6 section (a) to 1 or more persons as payment of any  
 7 liability of the taxpayer arising out of—

8 “(A) the downpayment of any portion of  
 9 the purchase price of the principal residence,  
 10 and

11 “(B) closing costs in connection with the  
 12 purchase (including any points or other fees in-  
 13 curred in financing the purchase).

14 “(2) CREDIT TRANSFER MECHANISM.—

15 “(A) IN GENERAL.—Not less than 180  
 16 days after the date of the enactment of this sec-  
 17 tion, the Secretary shall establish and imple-  
 18 ment a credit transfer mechanism for purposes  
 19 of paragraph (1). Such mechanism shall require  
 20 the Secretary to—

21 “(i) certify that the taxpayer is eligi-  
 22 ble to receive the credit provided by this  
 23 section with respect to the purchase of a  
 24 principal residence and that the transferee  
 25 is eligible to receive the credit transfer,

1 “(ii) certify that the taxpayer has not  
2 received the credit provided by this section  
3 with respect to the purchase of any other  
4 principal residence,

5 “(iii) certify the credit transfer  
6 amount which will be paid to the trans-  
7 feree, and

8 “(iv) require any transferee that di-  
9 rectly receives the credit transfer amount  
10 from the Secretary to notify the taxpayer  
11 within 14 days of the receipt of such  
12 amount.

13 Any check, certificate, or voucher issued by the  
14 Secretary pursuant to this paragraph shall in-  
15 clude the taxpayer identification number of the  
16 taxpayer and the address of the principal resi-  
17 dence being purchased.

18 “(B) TIMELY RECEIPT.—The Secretary  
19 shall issue the credit transfer amount not less  
20 than 30 days after the date of the receipt of an  
21 application for a credit transfer.

22 “(3) PAYMENT OF INTEREST.—

23 “(A) IN GENERAL.—Notwithstanding any  
24 other provision of this title, the Secretary shall  
25 pay interest on any amount which is not paid

to a person during the 30-day period described  
in paragraph (2)(B).

“(B) AMOUNT OF INTEREST.—Interest  
under subparagraph (A) shall be allowed and  
paid—

“(i) from the day after the 30-day pe-  
riod described in paragraph (2)(B) to the  
date payment is made, and

“(ii) at the overpayment rate estab-  
lished under section 6621.

“(C) EXCEPTION.—This paragraph shall  
not apply to failures to make payments as a re-  
sult of any natural disaster or other cir-  
cumstance beyond the control of the Secretary.

“(4) EFFECT ON LEGAL RIGHTS AND OBLIGA-  
TIONS.—Nothing in this subsection shall be con-  
strued to—

“(A) require a lender to complete a loan  
transaction before the credit transfer amount  
has been transferred to the lender, or

“(B) prevent a lender from altering the  
terms of a loan (including the rate, points, fees,  
and other costs) due to changes in market con-  
ditions or other factors during the period of  
time between the application by the taxpayer

1           for a credit transfer and the receipt by the  
2           lender of the credit transfer amount.

3           “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
4 poses of this section—

5           “(1) FIRST-TIME HOMEBUYER.—

6                 “(A) IN GENERAL.—The term ‘first-time  
7 homebuyer’ has the same meaning as when  
8 used in section 72(t)(8)(D)(i).

9                 “(B) ONE-TIME ONLY.—If an individual is  
10 treated as a first-time homebuyer with respect  
11 to any principal residence, such individual may  
12 not be treated as a first-time homebuyer with  
13 respect to any other principal residence.

14                “(C) MARRIED INDIVIDUALS FILING  
15 JOINTLY.—In the case of married individuals  
16 who file a joint return, the credit under this  
17 section is allowable only if both individuals are  
18 first-time homebuyers.

19                “(D) OTHER TAXPAYERS.—If 2 or more  
20 individuals who are not married purchase a  
21 principal residence—

22                         “(i) the credit under this section is al-  
23 lowable only if each of the individuals is a  
24 first-time homebuyer, and

1 “(ii) the amount of the credit allowed  
 2 under subsection (a) shall be allocated  
 3 among such individuals in such manner as  
 4 the Secretary may prescribe, except that  
 5 the total amount of the credits allowed to  
 6 all such individuals shall not exceed the  
 7 amount in effect under subsection  
 8 (b)(1)(A) for individuals filing joint re-  
 9 turns.

10 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-  
 11 cipal residence’ has the same meaning as when used  
 12 in section 121. Except as provided in regulations, an  
 13 interest in a partnership, S corporation, or trust  
 14 which owns an interest in a residence shall not be  
 15 treated as an interest in a residence for purposes of  
 16 this paragraph.

17 “(3) PURCHASE.—

18 “(A) IN GENERAL.—The term ‘purchase’  
 19 means any acquisition, but only if—

20 “(i) the property is not acquired from  
 21 a person whose relationship to the person  
 22 acquiring it would result in the disallow-  
 23 ance of losses under section 267 or 707(b)  
 24 (but, in applying section 267 (b) and (c)  
 25 for purposes of this section, paragraph (4)



1 of section 267(c) shall be treated as pro-  
 2 viding that the family of an individual shall  
 3 include only the individual's spouse, ances-  
 4 tors, and lineal descendants), and

5 “(ii) the basis of the property in the  
 6 hands of the person acquiring it is not de-  
 7 termined—

8 “(I) in whole or in part by ref-  
 9 erence to the adjusted basis of such  
 10 property in the hands of the person  
 11 from whom acquired, or

12 “(II) under section 1014(a) (re-  
 13 lating to property acquired from a de-  
 14 cedent).

15 “(B) CONSTRUCTION.—A residence which  
 16 is constructed by the taxpayer shall be treated  
 17 as purchased by the taxpayer.

18 “(4) PURCHASE PRICE.—The term ‘purchase  
 19 price’ means the adjusted basis of the principal resi-  
 20 dence on the date of acquisition (within the meaning  
 21 of section 72(t)(8)(D)(iii)).

22 “(e) DENIAL OF DOUBLE BENEFIT.—No credit shall  
 23 be allowed under subsection (a) for any expense for which  
 24 a deduction or credit is allowed under any other provision  
 25 of this chapter.

1       “(f) BASIS ADJUSTMENT.—For purposes of this sub-  
 2 title, if a credit is allowed under this section with respect  
 3 to the purchase of any residence, the basis of such resi-  
 4 dence shall be reduced by the amount of the credit so al-  
 5 lowed.

6       “(g) PROPERTY TO WHICH SECTION APPLIES.—

7               “(1) IN GENERAL.—The provisions of this sec-  
 8 tion apply to a principal residence if—

9                       “(A) the taxpayer purchases the residence  
 10 on or after January 1, 2005, and before Janu-  
 11 ary 1, 2010, or

12                      “(B) the taxpayer enters into, on or after  
 13 January 1, 2005, and before January 1, 2010,  
 14 a binding contract to purchase the residence,  
 15 and purchases and occupies the residence before  
 16 July 1, 2011.”.

17       (b) CONFORMING AMENDMENTS.—

18               (1) Subsection (a) of section 1016 of the Inter-  
 19 nal Revenue Code of 1986 (relating to general rule  
 20 for adjustments to basis) is amended by striking  
 21 “and” at the end of paragraph (30), by striking the  
 22 period at the end of paragraph (31) and inserting “,  
 23 and”, and by adding at the end the following new  
 24 paragraph:

1           “(32) in the case of a residence with respect to  
2           which a credit was allowed under section 36, to the  
3           extent provided in section 36(f).”.

4           (2) Section 1324(b)(2) of title 31, United  
5           States Code, is amended by striking “or” before  
6           “enacted” and by inserting before the period at the  
7           end “, or from section 36 of such Code”.

8           (c) CLERICAL AMENDMENT.—The table of sections  
9           for subpart C of part IV of subchapter A of chapter 1  
10          of the Internal Revenue Code of 1986 is amended by strik-  
11          ing the item relating to section 36 and inserting the fol-  
12          lowing new items:

          “Sec. 36. Purchase of principal residence by first-time homebuyer.  
          “Sec. 37. Overpayments of tax.”.

13          (d) EFFECTIVE DATE.—The amendments made by  
14          this section shall apply to taxable years beginning after  
15          December 31, 2004.

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